# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Cr.MP(M) No. 631 of 2007**

**Judgement reserved on:**

**Date of decision: 7.9.2007.**

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**State of H.P.** **…..Petitioner- Appellant.**

**Vs.**

**Suresh Kumar** **…. Respondent.**

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***Coram***

**The Hon'ble Mr. Justice Kuldip Singh, Judge.**

***Whether approved for reporting?***[1]

**For the petitioner : Mr. M.L.Chauhan, Addl. Advocate General.**

**For the Respondents :**

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***Kuldip Singh, Judge (Oral).***

This an application of the State for grant of leave to file an appeal against judgement of acquittal, dated 20.4.2006, passed by the learned Judicial Magistrate Ist Class, Court No. III, Hamirpur in police challan No. 4-II-2000, RBT No. 379-II/2004.

***2.*** The brief facts are that on 21.11.1999 at about 4 p.m. accused Suresh Kumar committed house trespass in the house of complainant Nirmala Devi at place Tikkar Uperala in order to cause hurt to her and gave beatings to Nirmala Devi and Pano Devi. The matter was reported to the police and an FIR was registered. Nirmala Devi and Pano Devi were medically examined. The police after

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***Whether the reporters of the local papers may be allowed to see the Judgment?***

investigation, presented the challan against the accused, under Sections 451, 325, 323 IPC. The learned Judicial Magistrate acquitted the accused on 20.4.2006, as noticed above. The State has filed the application for leave to file an appeal.

***3.*** Heard. PW 3 Smt. Nirmala Devi has stated that she was sitting inside her house and accused pelted stones which hit her eye. PW 4 Pano Devi has stated that she was sitting with Smt. Nirmala Devi in courtyard. The accused gave beatings to Nirmala Devi with a stick. Smt. Nirmala Devi deposed that she was rescued by Smt. Pano Devi and Smt. Parjo Devi, whereas Smt. Pano Devi has deposed that complainant was rescued by Smt. Parjo Devi as well as by her. PW 6 Kulbir Singh has deposed that complainant was rescued by him. Independent witness PW 9 Smt. Kamla Devi did not support the prosecution and was declared hostile. She was cross-examined, but her credibility could not be shattered The prosecution has failed to prove the case against the accused. The learned Judicial Magistrate has taken a possible view from the material on record in acquitting the accused. Hence, leave to file appeal is refused.

**September 7, 2007.** **( Kuldip Singh )**
**(*Hem*)** **Judge.**